

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DEMARCO JERMAINE
SMOTHERS, ERICK JERMAINE SMOTHERS,
and ERICAVAIHIA DIAMOND SMOTHERS,
Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

DEBORAH ANN MINTER,

Respondent-Appellant,

and

ERIC JERMAINE SMOTHERS, a/k/a ERICK
JERMAINE SMOTHERS,

Respondent.

UNPUBLISHED
November 25, 2008

No. 285531
Wayne Circuit Court
Family Division
LC No. 02-409578-NA

Before: Murphy, P.J., and Sawyer and Smolenski, JJ.

PER CURIAM.

Respondent Deborah Ann Minter appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err in finding that the statutory grounds for termination of respondent's parental rights were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The initial disposition occurred November 8, 2005, and more than 182 days elapsed before the termination hearing commenced on April 4, 2008. The primary conditions causing the children's wardship were respondent's abuse of alcohol and her failure to secure stable employment, provide basic necessities such as an environmentally fit home, beds, and food, and ensure that the children attended school regularly. These conditions had existed since the family first came to the attention of protective services in 1999 and constituted respondent's failure to provide proper care of the children.

This was respondent's second child protective proceeding. During her 2002 to 2003 proceeding, she received referrals, Work First training, and bus tickets, but she did not obtain stable employment and within one month had vacated the house volunteers had obtained and furnished for her in November 2001. With assistance from the agency, she obtained housing and furnishings for a short time when the children were returned to her in July 2003 but did not obtain employment and was unable to maintain that housing. When the children re-entered protective custody due to unfit home conditions in September 2005, respondent admitted she had not worked for the past two years and still abused alcohol. She did not obtain employment or housing during the two and a half years of this second child protective proceeding.

The evidence also showed respondent did not rectify her abuse of alcohol. She completed inpatient substance abuse treatment in March 2007, during which time she consistently submitted screens, but she thereafter failed to demonstrate sobriety by providing regular screens, failed to attend outpatient aftercare services despite referrals in March 2007 and June 2007, and refused to re-enter inpatient treatment after smelling of alcohol at a hearing in January 2008. She failed to attend counseling in 2006, due in part to the unavailability of her therapist, but she also failed to attend in 2007 despite no evidence of difficulty scheduling with a therapist.

Respondent's conditions remained essentially the same in April 2008 as they had been for several years, and the children were likely to suffer the harm of neglect if returned to her care. The trial court did not clearly err in terminating her parental rights under subsections 19b(3)(c)(i), (g), and (j).

The children were placed in the care of their paternal grandmother for 18 months during respondent's first child protective proceeding and for two and a half years during the second proceeding. The proper care provided by the paternal grandmother was referenced at various hearings, but there was no evidence the trial court improperly weighed the grandmother's care against respondent's care in finding a statutory basis to terminate respondent's parental rights. Regardless of with whom the children were placed, the trial court noted by the time of the fifth permanency planning hearing that respondent's long-term failure to become able to care for the children necessitated a termination hearing.

The evidence did not show that termination of respondent's parental rights was clearly contrary to the children's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).¹ Although respondent maintained a close parent-child bond by visiting the children regularly while they resided with the paternal grandmother for more than four of the previous six years, the evidence was clear and convincing that respondent would not overcome alcoholism, obtain employment, establish a stable home for the children, and provide for their needs within a reasonable time. The children loved respondent but desired to remain

¹ Pursuant to an amendment of MCL 712A.19b(5) by the Legislature in 2008 PA 199, a trial court must now find, in addition to a statutory ground for termination, "that termination of parental rights is in the child's best interests." This amendment was made effective July 11, 2008, which is after the date of termination in the case at bar.

with the paternal grandmother. The trial court was willing to consider a guardianship for the children, but the only custodian of the children was the paternal grandmother, who preferred the permanency of adoption to a guardianship. Because there was no evidence showing termination was clearly contrary to the children's best interests, the trial court did not err in terminating respondent's parental rights.

Affirmed.

/s/ William B. Murphy

/s/ David H. Sawyer

/s/ Michael R. Smolenski